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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,919	12/17/2001	Robert D. Snevely	SUN-P6995	4857

22200 7590 07/05/2005

PARK, VAUGHAN & FLEMING LLP  
39180 LIBERTY STREET  
SUITE 103  
FREMONT, CA 94538

EXAMINER
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PALADINI, ALBERT WILLIAM

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/023,919

Applicant(s)

SNEVELY, ROBERT D.

Examiner

Albert W. Paladini

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-26 and 37-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1, 17, and 18 all recite, "defining a corresponding equipment unit describing one or more characteristics of said computing mechanisms". There is no support in the specification for equipment units, which describe mechanisms.

There is no description or drawings for the input modules, profiler, and comparator used to form the system to configure a data center recited in claim 37.

Appropriate correction and clarification is required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 1-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 1**

It is not understood what "defining a corresponding equipment unit" means. Equipment may be designed to perform one or more operations, but how is an equipment unit defined to describe a characteristic of a computing mechanism?

**Claim 18**

It is not understood what "defining a corresponding equipment unit" means. Equipment may be designed to perform one or more operations, but how is an equipment unit defined to describe a characteristic of a computing mechanism?

Lines 9-10 recite, "combining said characteristics from said profiles corresponding to said first subset of said computing equipment items." Assuming that the subset of computing equipment is a storage device and a CPU. If the characteristic of the storage device is expressed in some multiple of bits, and a characteristic of the CPU may be expressed in MIPS or millions of instructions per second. The recitation does not explain how these characteristics are combined.

**Claims 27, 36**

In the step (a), the proxy is defined by listing requirements such as power cooling, space, etc. It is not understood what combining these requirements means in step (b). For example, how is power requirements combined with physical space, as they are expressed in different units?

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Appropriate correction and clarification is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-40 rejected under 35 U.S.C. 102(b) as being anticipated by Layton (6754816).

Addressing those elements of the claim, which are understood, makes this rejection.

Layton discloses a computer system and method for configuration and designing a data center. On lines 30-45 in column 4, Layton discloses a system and method used to design and configure a data center, which includes the estimation of resources, size of the computing mechanisms, capacity of the cooling system, and electrical capacity. Layton teaches the adaptability to any modification of the computer system as recited in claims 3, 4, 19, 36 and 37 on lines 9-18 in column 2.

Layton discloses the actual system recited in claims 37-40 in figure 1 and in column 2, lines 54+.

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***Relevant Prior Art***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schumacher (6374627) discloses a cooling system for a data center which designs the system for optimum cooling where the spatial configuration of components, and the placement of cooling elements results in the reduction of noise, conservation of electrical energy.

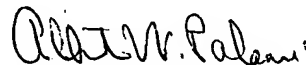
Hunt (6907395) discloses a system and method for designing and configuring a logical model of a distributed computer system including a data center, by considering the physical characteristics of the system including size, power requirements, cooling requirements, wiring; and in addition the computer resources including database requirements, data structure, internet characteristics, etc.

8. Any inquiry concerning this communication or earlier communication from the examiner should be direct to Albert W. Paladini whose telephone number is (571) 272-3748. The examiner can normally be reached from 7:00 to 3:00 PM on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Leo P. Picard, can be reached on (571) 272-3749. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

June 28, 2005

  
Albert W. Paladini  
Primary Examiner  
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